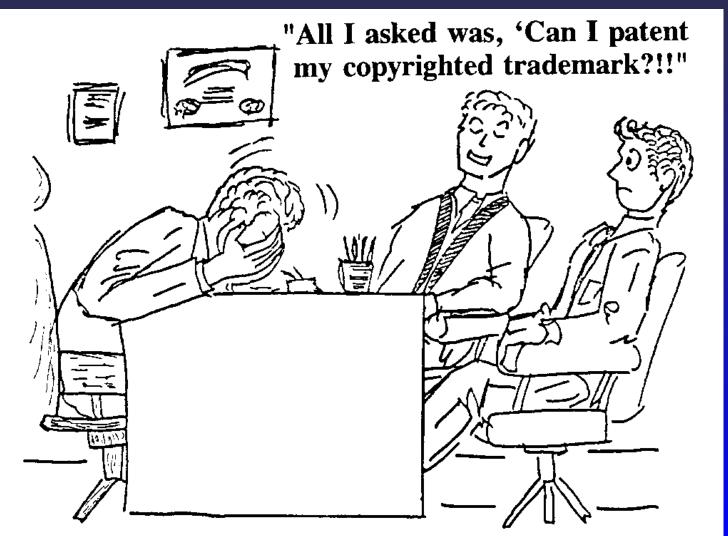
The Basics of Intellectual Property Law

The Rosetta Stone to Understanding Intellectual Property

by

A. David Spevack, Office of Naval Research

this question, you need this class!

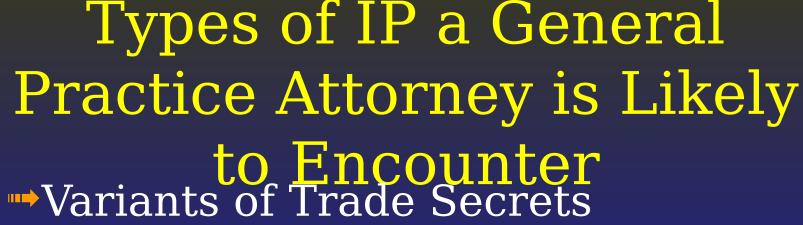


Types of Intellectual Property

- Patents
- Trademarks
- Copyrights
- Unfair Competition
- Trade Secrets

How to Acquire Rights

- Patents
 by Application, Examination and Grant
- Trademarks & Service Marks by Use in Interstate Commerce, then registration
- Copyright
- by writing something -perfected by declaration and registration



- - Limited rights in technical data
 - Restricted rights in computer software
 - Government purpose rights
 - special license rights

Types of Patents

Utility

Plant

Design

Utility Patent

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title. (35 U.S.C. § 101)

Plant Patents

Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated spores, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state. . . (35 U.S.C. § 161)

No bacteria or similar single-cell organisms need apply!

Design Patents

Whoever invents any new, original, and ornamental design for an article of manufacture may obtain a patent. (35 U.S.C. § 171)

What Is A Patent?

- Grant by the U.S. Government to provide individuals legal protection for their discoveries (inventions)
- Finds basis in Article 1, Section 8, U.S. Constitution
 - Congress is empowered to "...promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."
- Covered by Federal Law (Title 35 USC)
- Gives the patent owner the right to prevent others from making, using or selling the claimed invention within the United States or Country of Issue.

Life & Duration

- Life of utility patent 17 years from date of issue of Patent if application filed before June 95 or 20 years from date of filing application after June 95
- Effective only in the U.S. (foreign patent applications filed separately based on U.S. application are available).





- NEW
- USEFUL
- NOT OBVIOUS
- PERTAINS TOPATENTABLESUBJECT MATTERUNLESS
- GRANT OF PATENTIS NOT BARRED

SUBJECT MATTER PATENTABLE

- A PROCESS
- A MACHINE
- A COMPOSITION OF MATTER
- A MANUFACTURE

35 USC Section 101

Pop Quiz

Now that you know what type of material is patentable, Answer the following questions.

Questions?

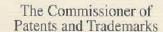
What's a microbe that eats oil?

What's a Harvard Mouse?

What's a method of doing business with a computerized system?

What Does a Patent look Like?

The United States of America



Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.

Therefore, this

United States Patent

Grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America for the term set forth below, subject to the payment of maintenance fees as provided by law.

If this application was filed prior to June 8, 1995, the term of this patent is the longer of seventeen years from the date of grant of this patent or twenty years from the earliest effective U.S. filing date of the application, subject to any statutory extension.

If this application was filed on or after June 8, 1995, the term of this patent is twenty years from the U.S. filing date, subject to any statutory extension. If the application contains a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121 or 365(c), the term of the patent is twenty years from the date on which the earliest application was filed, subject to any statutory extension.

Duce Terman

Commissioner of Patents and Trademarks

Canara Anorta



United States Patent (19)

Stevens et al.

[11] Patent Number:

1451 Date of Patent:

5,486,821 Jan. 23, 1996

[54] ARTIFICIAL HORIZON ALTITUDE WARNING SYSTEM

[75] Inventors: David E. Stevens, St. Louis, Mo.; Leonard A. Tenune, Pensacola, Fla.

[73] Assignoe: The United States of America as represented by the Secretary of the Navy, Washington, D.C.

[21] Appl. No.: 249,658

[22] Filed: May 26, 1994

[56] References Cited

U.S. PATENT DOCUMENTS

4,397,555	8/1983	Malgolm et al	340/960
4,616,226	10/1586		
4,743,903	5/1988	Morley	340/980
4,936,142	6/1990		
5,038,141	8/(99)	Grove	340/970
5,072,218	12/1991	Spero et al	340/980
5,075,685	12/1991	Vermalion et nl.,	340/970
5,134,394	7/1992	Beside	340/975
5,187,478	2/1993	Grove	340/970
5,214,425	5/1993	Wroode	340/980
5,218,355	6/1993	Bork/hard1	340/980
5.220,373	6/1993	Bateman et al	340/970
5,321,415	6/1994	Moent	340/980

5,334,995 B/1994 Bino 340/980

OTHER PUBLICATIONS

Bellonkes, A. H., "Human Fectors Engineering", Aeromedical Newsletter, (Mar. 1992), 92-3, pp. 13-16.

Cobeo, M. M., "Pilot Disorientation During Aircraft Catapult Launchings at Night: Historical and Experimental Perspectives", Aeromedical & Training Digest, (Jul., 1992), vol. 6, No. 3.

Nordwall, B. D., "Pliots Scose Autuade With Peripheral Vision Using New Carrett Display", Aviation Week & Space Technology, (May 8, 1989), pp. 97-99.

NASA Conference Publication 2306, "Peripheral Vision Horizon Display (PVHD)", (Mer. 15-16, 1983).

Primary Examiner—John K. Peng Assistant Examiner—Benjamin C. Lee Attorney, Agent, or Firm—A. David Spevack; William C.

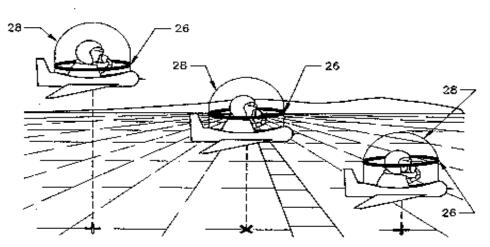
ABSTRACT

[57]

An artificial horizon aftitude wearning system is provided for helping to prevent a controlled flight of an aircraft into the ground. The artificial horizon altitude wanting system comprises an altituter for gathering altitude information about the discraft and generating an altitude signal; a laser assembly for producing a light in a cockpit of the discraft; and a

bly for producing a light in a cockpit of the direralt; and a committer for receiving the altitude signal and for positioning the light in the cockpit to form an artificial line based on the altitude signal, the artificial line being positioned so as to be disposed along tin accuste length corresponding to the location of an actual berizon as viewed by a pilot of the aircraft.

18 Claims, 3 Drawing Sheets



Foreign Rights

Filing within year
Acquiring foreign rights from inventor
Making the Choice

- National Filings
- Cost
 If you have to ask you can't afford
 it

How do we make use of Patents the command accumulates?



Or

How to negotiate a successful partnership.



What is a License?

- A contract between licensor and licensee.
- Licensor grants to licensee the right to practice the technology claimed in the licensed patent
- Licensor agrees not to sue licensee for infringing licensor's patent

37 C. F. R. PART 404 LICENSING OF GOVERNMENT OWNED INVENTIONS

- § 404.5 Restrictions and conditions on all licenses granted under this part.
 - (1) A license may be granted only if the applicant has supplied the Federal agency with a satisfactory plan for development or marketing of the invention, or both, and with information about the applicant's capability to fulfill the plan.
 - (2) A license granting rights to use or sell under a federally owned invention in the United States shall normally be granted only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

Other forms of IP!

Trade & Service Marks

Marks

- **™**Trademarks®, ™
 - A trademark identifies tangible good or product of a company or individual.
- company or individual.

 Servicemarks ®, SM

A service mark identifies the service s of a provider. Marks used by a company can function as both.

Trade names

- Once a trade name was used to denote any mark descriptive of a good or service.
- Today, it is a company business name.

Acquiring Trademark Rights

- Types of trademark
- SM a Service Mark SM used before registration
- Used in Interstate Commerce
- Rights by Registration®
- Unfair Competition
 - Misuse of Trade Dress
 - Passing Off



- **™**YES!!!!
 - **™**TOMAHAWK®
 - Marine Corp Marathon
 - NAVYJOBS.COMSM
 - Let The Journey Begin SM



YES!!!!!

Government sovereign immunity for trademark infringement including going so far as to allow the US to be sued in State court.

Other forms of IP

Copyright



Copyrights

- Copyright law protects the expression of an idea. Not the idea itself.
- Copyright protects
 - "...original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." (17 U.S.C. § 102)

Original

The term original in the copyright law means that the work *originated* with the author.

There is no requirement for novelty or uniqueness as there is in patent law.

Must originate with author.

Fixed in a Tangible Medium

- Any stable medium that will record or reproduce the material is acceptable
- Computer software satisfies the fixation the moment the material is stored
- a computer display is considered fixed even if it appears momentarily and only returns under certain conditions (games)

Duration

- Depends on whether it is pre or post 1 Jan. 1978
- Pre Depends on whether published? Registered, first term, renewal *etc*.
- Post -
 - Life of author + 50 years
 - Work-for-hire 75 years from publication, 100 years from creation which ever is first

Ownership

- Works for Hire employer is considered the author when:
 - work prepared by an employee within the scope or his/her employment
 - work specially ordered or commissioned for use as a contribution to a collective work
- Transfer of title *v* Work-for-Hire
 - under a work for hire, employer us considered the owner. Duration 75 years from pub or 100 from creation. Transfer (assignment *etc.* 35 years)

Ownership cont..

Joint Works - when 2 or more people make contributions of authorship with intention contributions be merged into inseparable work

Government Copyright

→17 USC §105

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise (including contract).

Fair Use

- Limited use without owners permission
 - criticism, comment, parody, news reporting, teaching, scholarship or research
 - criteria
 - purpose and character of use
 - nature of original work
 - amount of work used
 - extent of harm

Teaching Pop Quiz

Lets Apply the criteria:

- Education command wants to reproduce a text book and distribute to all bases and ships at sea. Permissible?
- Graphs copied and reproduced in slides will be used in lecture to 150 people. The lecture is going to be video broadcast to all bases and ships at sea. Permissible?

Using IP to Benefit the Lab

Technology
Transfer (T²)

Technology Innovation Legislation

- Stevenson-Wydler Technology Innovation Act of 1980
- Bayh-Dole Act of 1980
- Small Business Innovation Development Act of 1982
- Cooperative Research Act of 1984
- Federal Technology Act of 1986

Technology Innovation (Cont.)

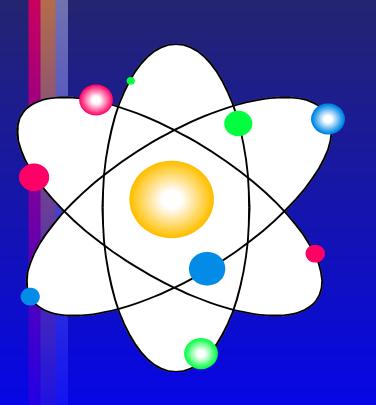
- Malcolm Baldridge National Quality Improvement Act of 1987
- Executive Orders 12591 and 12618 of 1987
 - Facilitating Access to Science and Technology
- Other Acts Expanding What Can Be Done:
 - Defense Authorization Acts
 - National Competitiveness Technology Transfer Act
 - Department of Commerce Funding Acts



15 U.S.C. § 3710 Utilization of Federal technology

"It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and Local

Job Description for Researchers!



Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.

Research and Development Agreement

⇒ FEDERAL LABRATORY ... Personnel

Services

Property

Patent License

Agreement

NON-FEDERAL PARTY... Personnel

Services

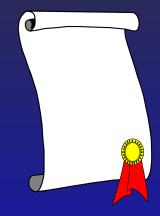
Property





\$Money\$\$\$





- Participants are able to leverage Resources:
 - Manpower, Facilities, Funding
- Technical problems are solved more effectively by a team effort
- Technology base is increased in both organizations.
- Federal tax dollars are more effectively utilized

Benefits to the Government Researcher

15 USC 3710c

Nhy do Government Employees want this?

15 U.S.C. § 3710c Distribution of royalties received by Federal agencies

- (iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).
- •(B) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year
 - •(i) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;
 - •(ii) to further scientific exchange among the laboratories of the agency;
 - •(iii) for education and training of employees consistent with the research and development missions and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;
 - (iv) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

(v) for scientific research and development consistent with the research and

Why is the Government Involved in this?

Government Research Money is becoming increasingly scarce.

The Old Way won't work anymore!



Formulate Hypothesis

Accumulat e Data, Do Extensive Testing!



Formulate a hypothesis, Patent it.
Raise \$17
million!



And the Lab Was Not Short of Research Money Anymore

A Fairy Tale
The end
OGC 2000